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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDWIN R. AVILA-VENTURA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74388

Agency No. A76-858-565

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 8, 2005^{**}

Before: WALLACE, LEAVY, and BERZON, Circuit Judges.

Edwin R. Avila-Ventura, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' summary affirmance of an Immigration Judge's ("IJ") order denying his applications for asylum, withholding

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 8 U.S.C. § 1252. We review the IJ’s decision for substantial evidence, *Ramos-Vasquez v. INS*, 57 F.3d 857, 861 (9th Cir. 1995), and we deny the petition for review.

The record does not compel the conclusion that Avila-Ventura has a well founded fear of future persecution in Guatemala, as he waited 13 years to leave Guatemala after his father’s death and did not provide evidence to suggest that the men who killed his father are looking for him. *See Nagoulko v. INS*, 333 F.3d 1012, 1018 (9th Cir. 2003).

As Avila-Ventura is unable to meet the burden of proof for asylum, he necessarily fails to meet the higher burden of proof for withholding of removal. *See Al-Harbi v. INS*, 242 F.3d 882, 889-89 (9th Cir. 2001).

Substantial evidence supports the IJ’s denial of relief under the CAT. *See Zheng v. Ashcroft*, 332 F.3d 1186, 1193 (9th Cir. 2003).

This court has no jurisdiction to review an IJ’s denial of voluntary departure. *See Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1144 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.